

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



|   |  |   |  |
|---|--|---|--|
| Applicant's or agent's file reference<br><b>VTI-10352/16</b>  |  | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |  |
| International application No.<br><b>PCT/US03/07270</b>  | International filing date (day/month/year)<br><b>18 February 2003 (18.02.2003)</b> | Priority date (day/month/year)<br><b>14 February 2002 (14.02.2002)</b>  |  |
| International Patent Classification (IPC) or national classification and IPC<br><b>IPC(7): B65D 65/02 and US Cl.: 118/505</b>   |  |   |  |
| Applicant<br><b>SYRON, JOHN</b>   |  |   |  |
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>0</u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li>I <input checked="" type="checkbox"/> Basis of the report</li> <li>II <input checked="" type="checkbox"/> Priority</li> <li>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</li> <li>IV <input type="checkbox"/> Lack of unity of invention</li> <li>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li>VI <input type="checkbox"/> Certain documents cited</li> <li>VII <input type="checkbox"/> Certain defects in the international application</li> <li>VIII <input type="checkbox"/> Certain observations on the international application</li> </ul> |  |   |  |
| Date of submission of the demand<br><b>22 August 2003 (22.08.2003)</b>  |  | Date of completion of this report<br><b>30 October 2003 (30.10.2003)</b>  |  |
| Name and mailing address of the IPEA/US<br>Mail Stop PCT, Attn: IPEA/US<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, Virginia 22313-1450<br>Facsimile No. (703) 305-3230   |  | Authorized officer<br><b>MICHELLE LAZOR</b><br>Telephone No. 571-272-1700<br><br><i>Jean Proctor</i><br>Paralegal Specialist  |  |

Form PCT/IPEA/409 (cover sheet)(July 1998)

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US03/07270

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed.
- ☒ the description:  
pages 1-12 as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
pages 13-16, as originally filed  
pages NONE, as amended (together with any statement) under Article 19  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
pages 1-4, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
pages NONE, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

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**II. Priority**

1. ☐ This report has been established as if no priority has been claimed due to the failure to furnish within the prescribed time limit the requested:
- ☐ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
  - ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. ☒ This report has been established as if no priority has been claimed due to the fact that the priority claim has been found invalid (Rule 64.1).

Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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International application No.  
PCT/US03/07270**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

|                               |  |     |
|-------------------------------|--|-----|
| Novelty (N)                   | Claims <u>3,5,10,14,16-19,23</u>       | YES |
|                               | Claims <u>1,2,4,6-9,11-13,15,20-22</u> | NO  |
| Inventive Step (IS)           | Claims <u>NONE</u>                     | YES |
|                               | Claims <u>1-23</u>                     | NO  |
| Industrial Applicability (IA) | Claims <u>1-23</u>                     | YES |
|                               | Claims <u>NONE</u>                     | NO  |

**2. CITATIONS AND EXPLANATIONS**

Please See Continuation Sheet

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

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## Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

1. Claims 1, 2, 4, 6 - 9, 11 - 13, 15 - 17, 20 - 22, and 24 lack novelty under PCT Article 33(2) as being anticipated by Harrell et al. (U.S. Patent No. 6183580).

Regarding Claims 1, 2, 11, 12, 15, and 24, Harrell et al. disclose a plurality of transparent masking sections applied to portions of a vehicle, comprising each of said plurality of individual sections being constructed of a plasticized material having a specified shape and thickness and including a backing surface; and said backing surface being adherently applied to a specified location of the vehicle and in order to mask a surface of the vehicle at that location, said masking sections being sectioned from a roll of material, each of said masking sections further exhibiting a specified shape and size and being constructed of a water impervious and plasticized material (column 1, line 65 - column 2, line 5 and column 6, lines 9 - 31). Thus Harrell et al. disclose all the limitations of Claims 1, 2, 11, 12, 15, and 24, and anticipate the claimed invention.

Regarding Claims 4, 6 - 9, 13, and 20 - 22, Harrell et al. disclose an adhesive material applied to said backing surface of each of said masking sections, comprising a peel-away layer applied to said backing surfaces and further comprising a film material adhesively applied to a cellulose-based substrate, also comprising creating a two tone painting application of a specified vehicle portion and a strip applied along at least one border of a given section (column 4, lines 7 - 49). Thus Harrell et al. disclose all the limitations of Claims 4, 6 - 9, 13, and 20 - 22, and anticipate the claimed invention.

2. Claims 1, 3, 8, 9, 11, 12, 21, 22, and 24 lack novelty under PCT Article 33(2) as being anticipated by Gentile (U.S. Patent No. 6062629).

Regarding Claims 1, 3, 11, 12, and 24, Gentile discloses a plurality of transparent masking sections applied to portions of a vehicle, said masking sections each being composed of a material considered to include at least a polypropylene, polyethylene and blends thereof, and exhibiting at least an acrylic and a rubber adhesive backing, comprising each of said plurality of individual sections being constructed of a plasticized material having a specified shape and thickness and including a backing surface; and said backing surface being adherently applied to a specified location of the vehicle and in order to mask a surface of the vehicle at that location, each of said masking sections further exhibiting a specified shape and size and being constructed of a water impervious and plasticized material (column 1, line 54 - column 2, line 67). Thus Gentile discloses all the limitations of Claims 1, 3, 11 - 13, and 24, and anticipates the claimed invention.

Regarding Claims 8, 9, 21, and 22, Gentile discloses the capability of creating a two tone painting application of a specified vehicle portion and a strip applied along at least one border of a given section (column 1, line 54 - column 8, line 62). Thus Gentile discloses all the limitations of Claims 4, 6 - 9, and 20 - 22, and anticipates the claimed invention.

3. Claims 1, 3, 4, 6 - 9, 11 - 13, 20 - 22, and 24 lack novelty under PCT Article 33(2) as being anticipated by Jabalee (U.S. Patent No. 5820201).

Regarding Claims 1, 3, 11, 12, and 24, Jabalee discloses a plurality of transparent masking sections applied to portions of a vehicle, said masking sections each being composed of a material considered to include at least a polypropylene, polyethylene and blends thereof, and exhibiting at least an acrylic and a rubber adhesive backing, comprising each of said plurality of individual

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## Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

sections being constructed of a plasticized material having a specified shape and thickness and including a backing surface; and said backing surface being adherently applied to a specified location of the vehicle and in order to mask a surface of the vehicle at that location, each of said masking sections further exhibiting a specified shape and size and being constructed of a water impervious and plasticized material (column 2, lines 7 - 34). Thus Jabalee discloses all the limitations of Claims 1, 3, 11, 12, and 24, and anticipates the claimed invention.

Regarding Claims 4, 6 - 9, 13, and 20 - 22, Jabalee discloses an adhesive material applied to said backing surface of each of said masking sections, comprising a peel-away layer applied to said backing surfaces and further comprising a film material adhesively applied to a cellulose-based substrate, also comprising creating a two tone painting application of a specified vehicle portion and a strip applied along at least one border of a given section (column 2, lines 7 - 34). Thus Jabalee discloses all the limitations of Claims 4, 6 - 9, 13, and 20 - 22, and anticipates the claimed invention.

4. Claims 1, 2, 4, 6 - 9, 10, and 23 lack novelty under PCT Article 33(2) as being anticipated by Jones et al. (U.S. Patent No. 4420520).

Regarding Claims 1 and 2, Jones et al. disclose a plurality of masking sections applied to portions of a vehicle, comprising each of said plurality of individual sections being constructed of a plasticized material having a specified shape and thickness and including a backing surface; and said backing surface being adherently applied to a specified location of the vehicle and in order to mask a surface of the vehicle at that location, said masking sections being sectioned from a roll of material, each of said masking sections further exhibiting a specified shape and size and being constructed of a water impervious and plasticized material (column 2, lines 28 - 50 and column 4, line 45 - column 5, line 56). Thus Jones et al. disclose all the limitations of Claims 1 and 2, and anticipate the claimed invention.

Regarding Claims 4 and 6 - 9, Jones et al. disclose an adhesive material applied to said backing surface of each of said masking sections, comprising a peel-away layer applied to said backing surfaces and further comprising a film material adhesively applied to a cellulose-based substrate, also comprising creating a two tone painting application of a specified vehicle portion and a strip applied along at least one border of a given section (column 2, line 28 - column 7, line 35). Thus Jones et al. disclose all the limitations of Claims 4 and 6 - 9, and anticipate the claimed invention.

Regarding Claims 10 and 23, Jones et al. disclose texturing by means of applying overspray on what is considered a mask (column 1, line 5 - column 2, line 43). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a texturing to said masking sections to appropriately utilize said masking section.

5. Claims 5, 14, 16, and 17 lack an inventive step under PCT Article 33(3) as being obvious over Harrell et al. as applied in Claims 1 and 13 above, in view of Brown (U.S. Patent No. 5050925).

Regarding Claims 5 and 14, Harrell et al. disclose all the limitations of Claims 1 and 13, but do not disclose at least one magnetic portion or strip applied to said backing surface of each of said marking devices. However, Brown disclose using magnets (column 1, lines 29 - 56). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use magnets as an alternative to using adhesive for attachment onto an object.

Regarding Claims 16 and 17, Harrell et al. disclose the step of applying a peel away layer to a backing surface associated with said roll of material, and further comprising the step of perforating along a width running direction of said roll of material at predetermined length intervals (column 6, lines 9 - 31). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a peel away layer to a backing surface to protect the magnets before application onto an object and it would have been obvious to perforate the roll of material along a width running direction to facilitate removal of pieces of material from said roll of material.

6. Claims 18 and 19 lack an inventive step under PCT Article 33(3) as being obvious over Harrell et al. as applied in Claim 12 above, in view of Ishii et al. (U.S. Patent No. 5395028).

Harrell et al. disclose all the limitations of Claim 12, but do not disclose said step of cutting further comprising the step of kiss stamping said specifically shaped section from said sheet of film material, and the step of employing a die roller. However, Ishii et al. disclose using kiss stamping and a die roller (column 2, line 62 - column 3, line 17). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use kiss stamping and a die roller to precisely cut the material.

7. Claim 18 lack an inventive step under PCT Article 33(3) as being obvious over Harrell et al. as applied in Claim 12 above, in view of Smith (U.S. Patent No. 4119745).

Harrell et al. disclose all the limitations of Claim 12, but do not disclose said step of cutting further comprising the step of kiss stamping said specifically shaped section from said sheet of film material. However, Smith discloses using kiss stamping (column 3, lines 13 - 24). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use kiss stamping and a die roller to precisely cut the material.

Claims 1-23 meet the criteria as defined under PCT Article 33(4).

----- NEW CITATIONS -----